PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number	32021-08054

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<tr><td rowspan="3">I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

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Application Number	Filed
10/609,008	June 27, 2003

First Named Inventor
Brett Error

Art Unit	Examiner
2161	Kavita Padmanabhan

This request is being filed with a notice of appeal.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

☒ attorney or agent of record.
   Registration number 37,070   .

☐ attorney or agent acting under 37 CFR 1.34.

   Registration number if acting under 37 CFR 1.34 _____

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of __1 of 1__ forms is submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Brett Error and John Pestana
APPLICATION NO.:	10/609,008
FILING DATE:	June 27, 2003
TITLE:	Capturing and Presenting Site Visitation Path Data
EXAMINER:	Kavita Padmanabhan
GROUP ART UNIT:	2161
ATTY. DKT. NO.:	32021-08054

COMMISSIONER FOR PATENTS
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REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW IN U.S. PATENT APPLICATION NO. 10/609,008 FILED ON JUNE 27, 2003

Pre-appeal brief review is appropriate in this application because the rejections in the Final Office Action dated December 7, 2006 contain clear deficiencies. Applicants request that the rejections of claims 12-21, 33-42, and 54-63 be withdrawn. As set forth below, these rejections omit essential elements needed for a *prima facie* rejection, because the cited reference fails to include any teaching of essential limitations set forth in the claims.

I.   **Rejections of Claims 54-63 Under 35 USC 101**

Claims 54-63 were rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter.

Claim 54 recites a computer-readable medium and computer program code, encoded on the medium, for performing various steps. It appears from the rejection that the Examiner agrees that the claims would be statutory if the claims were amended

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to read "a computer-readable storage medium". Applicants are prepared to so amend the claims assuming that the other grounds for rejection are resolved. Claims 55-63 depend from claim 54.

II. **Rejections of Claims 12-21, 33-42, and 54-63 Under 35 USC 102**

Claims 12-21, 33-42, and 54-63 were rejected under 35 USC 102 as allegedly being anticipated by Kasriel.

Claim 12 recites, in part, receiving input designating a target path comprising a sequence of nodes, <u>the target path further comprising at least one wild card.</u> By including at least one wild card in the target path, the present invention provides a mechanism for filtering based on a node sequence of interest, while allowing for the possibility that other nodes may appear <u>at certain places</u> within the node sequence. These other nodes are referred to below as "tangential" nodes. As stated in the specification at paragraph [0048], each wild card can indicate that it is permissible to have any single node at the position indicated by the wild card, or that it is permissible to have zero or more nodes at the position indicated by the wild card.

For example, a target path of A, C, ?, ?, E can be designated, where ? is a wild card indicating any single node. Any path including node A as the first node, C as the second node, and E as the fifth node would match the target path, regardless of which nodes are presented as the third and fourth node. <u>However, it would be a requirement that two nodes appear between C and E.</u>

As another example, a target path of A, C, *, E can be designated, where * is a wild card indicating zero or more nodes. Any path including node A as the first node, C as the second node, and E as a node appearing at some point after the second node would match the target path, regardless of whether or not any tangential nodes appear between C and E, and regardless of how many tangential nodes appear between C and E.

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This ability to flexibly specify target paths provides enhanced functionality in capturing and presenting site visitation path data and statistics.

Kasriel, on the other hand, provides no hint or suggestion of such a technique, and is not capable of defining matching paths as described above.

Kasriel discloses a user interface that allows a user to select parameters for filtering path-analysis data so as to target specific traversals. However, the mechanism by which target paths are specified is entirely different than the wild card technique claimed herein.

Specifically, in Kasriel, the user specifies a target location of interest. The target may include all pages of a website, or a set of pages of interest within a website. A particular traversal to or from the target location can also be specified. See paragraph [0033]. Examples of the types of conditions that can be specified are provided at paragraph [0035], such as: "all accesses to the web-site from 'yahoo.com' that include at least one visit to 'pages A, B, or C'", or "all access to the web-site from 'yahoo.com' wherein the visitor entered the web-site via 'pages A, B, or C'", or "all accesses to the web-site from 'yahoo.com' wherein the visitor entered the web-site via 'page A', and visited 'page B or C'."

None of these examples includes the concept of a wild card, or any equivalent concept. In fact, the wild card concept does not appear anywhere in Kasriel, nor does any equivalent concept. Accordingly, Kasriel provides no mechanism by which a target path can be specified including a sequence of required pages and allowing for additional tangential pages to be visited at specific points on the path but not at other points on the path.

For example, in the example provided above, the target path of A, C, *, E (which includes a wild card between C and E) allows for additional pages (nodes) between C and E but not between A and C. Kasriel provides no mechanism by which such a path can be specified.

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In the Final Office Action, the Examiner stated that Kasriel's description at paragraph [0035] provides an example wherein a user may request "all accesses to the web-site from 'yahoo.com' wherein the visitor entered the web-site via 'page A', and visited 'page B or C'". The Examiner contends that such a description clearly teaches the concept of a wild card. On the contrary, Kasriel's description does not teach anything of the sort. Kasriel's example would generate a match when the visitor entereed via a specific page (A) and visited, at some point, either page B or C. No particular target path is specified. No mechanism is provided for specifying whether or not a match can include visits to tangential page or pages.

Thus, in the example of Kasriel, any of the following paths would match, and Kasriel does not teach any mechanism to specify that some should match while others should not:

- A, D, B, F, A
- A, F, G, H, F, G, A, C
- A, B
- A, B, C, X, D, E, F, G
- A, G, F, D, X, C, B, A

Note in particular the last two paths, where the order of pages following page A is reversed, and where X appears as a tangential page. Kasriel provides no technique by which one node sequence would match while the other would not, while still allowing for tangential pages within the sequence.

By contrast, the wild-card technique claimed herein allows specification of a particular path of interest, with allowances for tangential pages indicated by wild cards. Thus, for example, a path of A, B, C, *, D, E, F, G could be specified, denoting a specific sequence (A through G) but still allowing for a tangential page or pages between C and D.

Accordingly, the wild cards claimed herein provide a much greater degree of flexibility in specifying a particular path to be matched, and in designating points along

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the path where tangential pages may or may not appear while still resulting in a match. Nowhere in Kasriel is any such matching technique taught or suggested, nor is there any hint of any other technique that would provide as robust a pattern-matching capability.

To summarize, there is no hint or suggestion anywhere in Kasriel for any technique by which a specific target path can be defined, along with an indication as to where (and how many) tangential nodes are permitted to appear. Accordingly, Kasriel fails to teach or suggest the wildcard-based technique recited in claim 12, and further fails to teach or suggest any equivalent technique.

To establish *prima facie* anticipation of a claimed invention, all claim limitations must be taught or suggested by the prior art. See MPEP §2121. On the contrary, by failing to provide any reference that describes the wild card techniques recited by the claims, the Examiner has failed to establish *prima facie* anticipation under MPEP §2121.

Therefore, it is respectfully requested that the final rejections of claims 12-21, 33-42, and 54-63 be withdrawn.

Respectfully submitted,
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Dated: March 1, 2007   By: /Amir H. Raubvogel/
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